IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FOURTEENTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

-

WRIT PETITION NO : 25248 of 1999

Between:

Sri B. Sambasiva Rao S/o Ramalingam
R/o 23-6-27, Thomaspet,
Chirala, Prakasam Dist.

..... PETITIONER

AND

1. The General Manager (Dev. & Personnel Banking) &

Disciplinary Authority, State Bank of India, Bank Street,
Hyderabad-95
2. The Chief General Manager & the Appointing Authority
State Bank of India, Bank Street, Hyderabad-95
3. The Deeputy Managing Director & Corporate Development

Officer, Appellate Authority
State Bank of India, Central Office, P.O.Box No.12,
Mumbai-21
4. The Reviewing Committee (II),
State Bank of India, Central Office, P.O.Box No.12,
Mumbai-21
5. The State Bank of India, Central Officer, rep. by Chairman
P.O.Box No.12, Mumbai-21

....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue an appropriate writ, order or direction in the nature of Certiorari calling for the records relating to the proceedings of the 1st respondent Dated 10-5-1997

recommending removal of the petitioner from service, the proceedings dated 13-5-1997 of the 2nd respondent approving the same, the proceedings of the 3rd respondent dated 21-2-1998 confirming the order of the 2nd respondent and the proceedings of the 4th respondent dated 24-3-1999 confirming the order of the 3rd respondent, and quash the same as arbitrary, illegal, unjust, voilative of the fundamental rights guaranteed to the petitioner under the Constitution of India, voilative of the principles of natural justice and issue a consequential direction to the respondents to reinstate the petitioner into service along with all the monetary benefits to which the petitioner is entitled.

Counsel for the Petitioner: MR.S.SRINIVAS REDDY

Counsel for the Respondents 1 and 5: MR.M.S.RAMCHANDRA RAO

The Court made the following:

ORDER:

This Writ Petition is filed seeking writ of certiorari to call for the records relating to the proceedings of the first respondent dated 10.05.1997 removing the petitioner from service and as approved by the second respondent in his proceedings, dated 13.05.1997 and also the proceedings of the third respondent, dated 21.02.1998 confirming the order of the second respondent and proceedings, dated 24.03.1999 of the fourth respondent confirming the order of the third respondent and quash the same as arbitrary and illegal and consequentially direct the respondents for reinstatement of petitioner into service with all consequential benefits.

It is the case of the petitioner that he joined the service of the State Bank of India as Clerk-cum-Cashier in the year 1977. Subsequently, he was promoted as Officer in the year 1985. He has always been very sincere in discharging his duties in the

entire service rendered with the bank. There was no complaint whatsoever from any corner. While so, a complaint was made stating that the petitioner had encashed the banker's cheque and 12 other cheques and the proceeds were utilized for his personal benefit and on the basis of a complaint, he was placed under suspension and a charge sheet was issued on 23.11.1994. The petitioner submitted his explanation to the charge sheet and having not satisfied with the explanation, an enquiry officer was appointed and after conducting a detailed enquiry in to the matter, petitioner was removed from the service of the bank. Aggrieved by the same, he filed an appeal and further review, both of them were rejected, hence, this writ petition.

A detailed counter affidavit has been filed by the respondent denying the allegations made by the petitioner and supported the removal order passed by the disciplinary authority as confirmed by the appellate authority and review authorities.

It is the contention of the learned counsel for the petitioner that while conducting the enquiry, the enquiry officer had violated the principles of natural justice. The subscribers who had filed letters stating that they themselves had withdrawn the amounts were not examined in the domestic enquiry. Further the documents relied upon by the enquiry officer were not made available to the petitioner. In the very nature of the misconduct alleged against the petitioner more than one officer were involved. However, the petitioner was singled out and an enquiry was conducted against him and his services were dispensed with. Assuming that charges are proved, without being admitted, the punishment of removal from service is shockingly disproportionate to that of the alleged misconduct, particularly for the reasons that the petitioner had put in 14 years of unblemished service earlier. Therefore, the impugned proceedings are vitiated and they are liable to be set aside.

Learned counsel for the respondent M.S.Ramachandra Rao, strenuously contended that the misconduct alleged is very grave in nature which is nothing but dealing with the finance of the bank and the very confessional letters filed by the petitioner would indicate that the nature of offence and the way in which the amounts were withdrawn by him after encashing the cheques relating to the others. Therefore, even if the past conduct of the petitioner was clear, no relief can be granted and in the nature of the charges proved, the punishment can never be said to be disproportionate that of the misconduct. The punishment is perfectly commensurate with that of the charges proved against the petitioner and no lenience can be shown by this Court while

exercising its powers under Article 226 of the Constitution of India.

I have given my earnest consideration to the respective submissions made by the learned counsel on either side and gone through the impugned proceedings as well as other material available on record.

At the out set, I am of opinion that this is the case where the charges are very grave in nature and do not call for any interference by this Court as to the punishment imposed by the disciplinary authority as confirmed by the appellate authority and review authorities. Insofar as violation of principles of natural justice is concerned, it is the case of the petitioner that some of the subscribers, who gave letters stating that they themselves had withdrawn the cheque amounts were not examined in the domestic enquiry. If really those ten people have given a letter stating that they themselves withdrawn the amounts nothing prevented the petitioner to examine those people in the domestic enquiry. Further contention is that some documents relied upon were not made available, there is no specific incident which is brought to notice of this Court or for the examination of the authority. It may be necessary to notice the charges framed by the disciplinary authority; which reads as under:

a. You had surreptitiously removed some of the bankers cheques, issued at the Branch and were held without being delivered to the payees concerned. You had fraudulently en-cashed those cheques and utilized the amounts for your personal benefit.

b. You had revalidated without any authority some of the above bankers cheques which were out-of-date.

c. You had tampered with the bank's records to defraud the bank.

As seen from the findings against these charges by the Enquiry Officer as relied upon by the disciplinary authority for each and every allegation made, petitioner gave a confessional letter explaining how and in what manner the misconduct was committed by him. In the light of the confessional statements made by the petitioner, the contention of the learned counsel for the petitioner that some subscribers gave some letters stating that they themselves had withdrawn the amounts, therefore, they ought to have been examined in the domestic enquiry is of no consequence. Apart from that, nothing prevented the petitioner from producing such witnesses, who

spoke in his favour. Further the contention of the learned counsel for the petitioner that there are so many officers involved in a transaction like this and except the petitioner, others were let off is also without any substance. Since the petitioner gave letter confessing to the misconduct committed by him and the charges are grave in nature relating to the financial transactions of the bank and whether the petitioner deposited the amounts or not is of no consequence. Therefore, further arguments of the learned counsel for the petitioner that the punishment of removal from service is disproportionate to that of misconduct proved also cannot be countenanced for the very same reasons noted supra.

For all the above reasons, I am of the opinion that the order passed by the disciplinary authority as confirmed by the appellate authority does not suffer from any illegality or irregularity apparent on the face of the record and does not warrant interference of this Court under Article 226 of the Constitution of India. The Writ Petition is devoid of merit and is liable to be dismissed.

Accordingly, the Writ Petition is dismissed. No order as to costs.

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14-07-2005

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To

1. The General Manager (Dev. & Personnel Banking) &

Disciplinary Authority, State Bank of India, Bank Street,
Hyderabad-95
2. The Chief General Manager & the Appointing Authority
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